

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

MURLENE LEWIS, as administrator)	
of the estate of RUSSELL LEWIS,)	
)	
Plaintiff,)	
)	
vs.)	Case Number CIV-12-1252-C
)	
ENERGY SOLUTIONS, LLC,)	
)	
Defendant.)	

MEMORANDUM OPINION AND ORDER

Russell Lewis was employed by Defendant as a transportation services manager. While so employed, Mr. Lewis suffered from a progressive and chronic condition known as Chronic Obstructive Pulmonary Disease (“COPD”). Mr Lewis alleges that COPD is a disability under the Americans with Disabilities Act as amended (“ADAA”). This action was brought to seek relief for Defendant’s alleged wrongful conduct. During the course of discovery, a dispute arose over Mr. Lewis’s medical records; the parties are in conflict regarding both the manner in which those records may be obtained and the breadth of Mr. Lewis’s medical conditions which are at issue.

Believing that it had not received all medical records related to Mr. Lewis, Defendant issued subpoenas to his medical providers. At least some of those providers, those employed by the Oklahoma City VA Medical Center (“VA”), refused to comply with the subpoena absent an Order from the Court or the consent of Plaintiff. Unable to obtain consent from Plaintiff, Defendant filed the present motion seeking an Order from the Court directing the VA to produce the records.

The Court cannot, at this time, grant Defendant the relief requested. To the extent Defendant seeks an Order directing the VA to produce records, an Order cannot be issued, as the present motion was not served on the VA and that entity has not had an opportunity to be heard on the issue. To the extent Defendant seeks some relief from Plaintiff, an Order will not issue because Defendant has failed to conduct the required face-to-face conference. See Fed. R. Civ. P. 37(a)(1) and LCvR 37.1.

For the reasons set forth herein, Defendant's Motion to Compel Production of Russell Lewis' Medical Records (Dkt. No. 36) is DENIED without prejudice to its refiling.

IT IS SO ORDERED this 12th day of September, 2013.



ROBIN J. CAUTHRON
United States District Judge